



Report on

Market Conduct Examination

of the

First Mutual Insurance Company

Smithfield, North Carolina

by Representatives of the
North Carolina Department of Insurance

as of

February 28, 2023

TABLE OF CONTENTS

SALUTATION	1
SCOPE OF EXAMINATION	2
EXECUTIVE SUMMARY	3
POLICYHOLDER TREATMENT	4
Consumer Complaints	4
Privacy of Financial and Health Information	5
MARKETING	5
Policy Forms and Filings	5
Producer Licensing	6
UNDERWRITING AND RATING	6
Overview	6
TERMINATIONS	7
Overview	7
Homeowners Cancellations	7
Farmowners Cancellations	8
Dwelling Fire Cancellations	9
Commercial Fire Cancellations	9
Personal Inland Marine Cancellations	10
Commercial Inland Marine Cancellations	11
Homeowners Nonrenewals	11
Dwelling Fire Nonrenewals	12
Commercial Fire Nonrenewals	13
Personal Inland Marine Nonrenewals	13
Commercial Inland Marine Nonrenewals	14
Declinations/Rejections	14

CLAIMS PRACTICES	15
Overview	15
Paid Claims	16
Claims Closed Without Payment	16
SPECIAL CONCERNS	16
COMMENTS, RECOMMENDATIONS, AND DIRECTIVES	17
CONCLUSION	18

Raleigh, North Carolina
February 28, 2023

Honorable Mike Causey
Commissioner of Insurance
Department of Insurance
State of North Carolina
Albemarle Building
325 N. Salisbury Street
Raleigh, North Carolina 27603

Honorable Commissioner:

In accordance with the provisions of North Carolina General Statute (NCGS) 58-2-131 through 58-2-134, a general examination has been made of the market conduct activities of the following entity:

First Mutual Insurance Company (NAIC #43877)
NAIC Exam Tracking System Exam Number: NC-NC131-26
Smithfield, North Carolina
(hereinafter generally referred to as the Company)

The examination was conducted at the North Carolina Department of Insurance (Department) office located at 325 N. Salisbury Street, Raleigh, North Carolina. A report thereon is respectfully submitted.

SCOPE OF EXAMINATION

This examination commenced on June 13, 2022, and covered the period of July 1, 2018, through June 30, 2021. Analyses of certain operations of the Company were concluded during the Wrap-Up Conference which was held on January 12, 2023. All comments made in this report reflect conditions observed during the period of the examination.

The examination was performed in accordance with auditing standards established by the Department and procedures established by the National Association of Insurance Commissioners (NAIC). The scope of this examination consisted of an examination of the Company's practices and procedures in policyholder treatment, marketing, underwriting and rating, terminations, and claims practices. The findings and conclusions contained within the report are based solely on the work performed and are referenced within the appropriate sections of the examination report.

It is the Department's practice to cite companies in violation of a statute or rule when the results of a sample show errors/noncompliance that fall outside certain tolerance levels. The Department applied a 0% tolerance level for consumer complaints, producers/adjusters who were not appointed and/or licensed, and the use of forms and rules that were neither filed with nor approved by the Department; 7% for claims; and 10% for all other areas reviewed. When errors are detected in a sample, but the error rate is below the applicable threshold for citing a violation, the Department issues a reminder to the company.

EXECUTIVE SUMMARY

This market conduct examination revealed concerns with the Company's practices and procedures in the following areas:

Policyholder Treatment – Consumer Complaints: The Company denied a claim for a reason that was not supported by the policy forms.

Marketing – Policy Forms and Filings: The Company did not file applications, declarations, and termination notices with the Department. *Producer Appointments:* The Company did not perform background checks of producers newly appointed with the Company. *Producer Terminations:* The Company did not maintain documentation to support the electronic submission and confirmation of termination. The Company did not properly notify producers of the termination of their appointment.

Underwriting and Rating – Invalid Receipts: The Company submitted incomplete policy listings. *Maintenance of Records:* The Company did not maintain any rating manuals.

Terminations – Dwelling Fire Cancellations: Using invalid reasons for mid-term cancellations. *Commercial Fire Cancellations:* Using invalid reasons for mid-term cancellations. *Personal Inland Marine Cancellations:* Using an incorrect method for calculating unearned premium. *Commercial Inland Marine Cancellations:* Using an incorrect method for calculating unearned premium; not giving proper advance notice to the insured. *Farmowners Nonrenewals:* Not giving proper advance notice to the insured. *Personal Inland Marine Nonrenewals:* Not giving proper advance notice to the insured. *Declinations:* Did not issue policy and give proper advance notice of cancellation; no summary of rights was provided to the insured when declination was due to information contained in a consumer report.

Special Concerns – The Company failed to effectively coordinate with the Department and facilitate the examination.

Specific violations are noted in the appropriate section of this report. All North Carolina General Statutes and rules of the North Carolina Administrative Code cited in this report may be viewed on the North Carolina Department of Insurance Website <https://www.ncdoi.gov/insurance-industry/market-regulation>.

This examination identified various statutory violations. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business in North Carolina according to its insurance laws and regulations.

All statutory violations may not have been discovered or noted in this report. Failure to identify statutory violations in North Carolina does not constitute acceptance of such violations.

POLICYHOLDER TREATMENT

Consumer Complaints

The Company's complaint handling procedures were reviewed to determine compliance with applicable North Carolina statutes and rules.

The Company's complaint register for the period under examination was in compliance with provisions of Title 11 of the North Carolina Administrative Code (NCAC), Chapter 19, Section 0103.

The Company's complaint register was reconciled with a listing provided by the Consumer Services Division of the Department. All complaints from the Department's listing of 13 were selected for review. The distribution of complaints requiring a response to the Department is shown in the chart below.

Type of Complaint	Total
Claims	10
Underwriting	2
Administrative	1
Total	13

The Company's response to each complaint was deemed to be appropriate to the circumstances.

The average service time to respond to a Departmental complaint was five calendar days. A chart of the Company's response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	13	100.0
Total	13	100.0

The Company was deemed to be in violation of the provisions of NCGS 58-63-15(11)(h)

as one complaint (7.7% error ratio) was filed and upheld for settling a claim for an amount less than a reasonable person would have believed they were entitled. A theft loss from an appurtenant structure was denied because it was on separately deeded land, but coverage had been extended by endorsement to the structure, contents, and land. At the request of the examiners, the Company issued a claim payment to the insured/claimant in the amount of \$16,181.91, including interest.

Privacy of Financial and Health Information

The Company provided privacy of financial and health information documentation for the examiners' review. The Company exhibited policies and procedures in place so that nonpublic personal financial or health information is not disclosed unless the customer or consumer has authorized the disclosure. The Company was found to be compliant with the provisions of NCGS 58-39-25, 58-39-26, and 58-39-27.

MARKETING

Policy Forms and Filings

Policy forms and filings for the Company were reviewed to determine compliance with appropriate North Carolina statutes and rules. The review was based on the following lines of business:

1. Homeowners
2. Farmowners
3. Dwelling Fire
4. Commercial Fire
5. Personal Inland Marine
6. Commercial Inland Marine

Form filings for all lines of business were made by the American Association of Insurance Services on behalf of the Company. The Company independently filed certain forms for these lines of business with the Department.

The Company was deemed to be in violation of the provisions of NCGS 58-3-150(a), 58-39-55 and 11 NCAC 10.1201 as the applications, declarations, and termination notices for all lines of business were not filed with the Department (100% error ratio).

The provisions stipulated under 11 NCAC 10.1102(10)(f) exempt the Company from having to submit rate filings to the Department. The Company promulgates its own rates.

Producer Licensing

The Company's procedures for appointment and termination of its producers were reviewed to determine compliance with the appropriate North Carolina statutes and rules.

The Company provided the examiners with listings of 230 appointed and 442 terminated producers for the period under examination. Fifty appointed and 50 terminated producer files were randomly selected for review.

The Company was deemed to be in violation of 11 NCAC 6A.0412 as the Company failed to determine before appointing the producer that the producer had not committed any act that is a ground for probation, suspension, nonrenewal, or revocation set forth in NCGS 58-33-46 for 50 appointed producers (100% error ratio).

The Company was deemed to be in violation of 11 NCAC 19.0102(a) and 19.0106(a)(3),(e) as documentation supporting the Company's electronic submission and the Department's electronic confirmation of termination was not maintained for 50 terminated producers (100% error ratio). The Company was deemed to be in violation of NCGS 58-33-56(d) as the Company failed to properly notify 50 producers of the termination of their appointment (100% error ratio).

UNDERWRITING AND RATING

Overview

The Company's marketing in North Carolina is directed to personal and commercial lines of coverage. The Company provided the examiners with listings of the following types of active policies for the period under examination:

1. Homeowners
2. Farmowners
3. Dwelling Fire
4. Commercial Fire
5. Personal Inland Marine
6. Commercial Inland Marine

The Company failed to produce accurate listings of policies and was deemed in violation of the provisions of NCGS 58-2-131, 58-2-185 and 11 NCAC 19.0106(a)(4),(e).

The Company was deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104 and 19.0106(a)(4),(e) as the examiners were not provided access to rating materials to properly determine that policies issued by the Company conformed to uniform rating practices.

TERMINATIONS

Overview

The Company's termination procedures were reviewed to determine compliance with the appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules. The review was based on the following lines of business:

1. Homeowners
2. Farmowners
3. Dwelling Fire
4. Commercial Fire
5. Personal Inland Marine
6. Commercial Inland Marine

Special attention was placed on the validity and reason for termination, timeliness in issuance of the termination notice, policy refund (where applicable), and documentation of the policy file. A total of 1,597 policies were terminated during the period under examination. The examiners randomly selected 367 terminations for review.

Homeowners Cancellations

Fifty cancelled homeowners policies were randomly selected for review from a population of 969. The Company was reminded of the policy termination provisions as three policies were cancelled mid-term for invalid reasons (6.0% error ratio). The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Insured's request	29	58.0
Nonpayment of premium	15	30.0
Adverse underwriting decision	6	12.0
Total	50	100.0

The Company was reminded of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4),(e) as one file did not contain required documentation (2.0% error ratio).

All premium refunds were deemed correct. The Company issued refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Farmowners Cancellations

Fifty cancelled farmowners policies were randomly selected for review from a population of 76. The Company was reminded of the policy termination provisions as two policies were cancelled mid-term for invalid reasons (4.0% error ratio). The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Insured's request	22	44.0
Adverse underwriting decision	16	32.0
Nonpayment of premium	12	24.0
Total	50	100.0

The Company was reminded of the policy termination provisions as two policies were cancelled without giving proper advance notice to the insured (4.0% error ratio).

All premium refunds were deemed correct. The Company issued refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Dwelling Fire Cancellations

All policies were selected for review from a population of 27. The Company was deemed to be in violation of the policy termination provisions as three policies were cancelled mid-term for invalid reasons (11.1% error ratio). The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Insured's request	9	33.3
Nonpayment of premium	7	25.9
Adverse underwriting decision	7	25.9
Policy rewritten	4	14.8
Total	27	100.0

The Company was reminded of the policy termination provisions as one policy was cancelled without giving proper advance notice to the insured (3.7% error ratio).

All premium refunds were deemed correct. The Company issued refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Commercial Fire Cancellations

All policies were selected for review from a population of 14. The Company was deemed to be in violation of the policy termination provisions as three policies were cancelled mid-term for invalid reasons (21.4% error ratio). The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Nonpayment of premium	7	50.0
Adverse underwriting decision	4	28.6
Insured's request	2	14.3
Policy rewritten	1	7.1
Total	14	100.0

The Company was reminded of the policy termination provisions as one policy was cancelled without giving proper advance notice to the insured (7.1% error ratio).

All premium refunds were deemed correct. The Company issued refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Personal Inland Marine Cancellations

All policies were selected for review from a population of 32. The reason for cancellation was deemed valid for all policies reviewed. The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Nonpayment of premium	17	53.1
Insured's request	12	37.5
Adverse underwriting decision	2	6.3
Policy rewritten	1	3.1
Total	32	100.0

The Company was reminded of the policy termination provisions as two policies were cancelled without giving proper advance notice to the insured (6.3% error ratio).

The Company was deemed to be in violation of the policy termination provisions as five policies were cancelled using an incorrect method for calculating unearned premium (15.6% error ratio). The errors resulted in five overcharges. At the request of the examiners, the Company issued refunds totaling \$707.02, including interest.

All other premium refunds were deemed correct. The Company issued refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Commercial Inland Marine Cancellations

Fifty cancelled commercial inland marine policies were randomly selected for review from a population of 189. The Company was reminded of the policy termination provisions as two policies were cancelled mid-term for invalid reasons (4.0% error ratio). The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Nonpayment of premium	29	58.0
Insured's request	16	32.0
Adverse underwriting decision	3	6.0
Policy rewritten	2	4.0
Total	50	100.0

The Company is deemed to be in violation of the policy termination provisions as six policies were cancelled using an incorrect method for calculating unearned premium (12.0% error ratio). The errors resulted in five overcharges and one undercharge. At the request of the examiners, the Company issued refunds totaling \$860.06, including interest. An additional cancellation falling outside the examination period was identified by the Company as an overcharge and \$1,172.99, including interest, was refunded to the insured.

The Company is deemed to be in violation of the policy termination provisions as five policies were cancelled without giving proper advance notice to the insured (10.0% error ratio).

The Company is reminded of the policy termination provisions as a notice of cancellation giving 10 days advance notice was not delivered to the insured for one file reviewed (2.0% error ratio).

Homeowners Nonrenewals

Fifty nonrenewed homeowners policies were randomly selected for review from a population of 76. The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Agent no longer appointed	28	56.0
Adverse underwriting decision	22	44.0
Total	50	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal. All insureds and mortgagees were given proper and timely notification of nonrenewal.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Farmowners Nonrenewals

All nonrenewed farmowners policies were selected for review from a population of 18. The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Adverse underwriting decision	10	55.6
Agent no longer appointed	8	44.4
Total	18	100.0

The Company was deemed to be in violation of the policy termination provisions as seven policies were nonrenewed without giving the insured at least 45 days advance notice (38.9% error ratio).

The final area of this review encompassed documentation of the policy file. All policy files contained sufficient documentation to support the action taken by the Company.

Dwelling Fire Nonrenewals

All nonrenewed dwelling fire policies were selected for review from a population of 11. The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Adverse underwriting decision	11	100.0
Total	11	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal. All insureds and mortgagees were given proper and timely notification of nonrenewal.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Commercial Fire Nonrenewals

All nonrenewed commercial automobile policies were selected for review from a population of five. The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Adverse underwriting decision	3	60.0
Agent no longer appointed	2	40.0
Total	5	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal. All insureds and mortgagees were given proper and timely notification of nonrenewal.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Personal Inland Marine Nonrenewals

All nonrenewed personal inland marine policies were selected for review from a population of six. The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Agent no longer appointed	5	83.3
Adverse underwriting decision	1	16.7
Total	6	100.0

The Company was deemed to be in violation of the policy termination provisions as one policy was nonrenewed without giving the insured at least 45 days advance notice (16.7% error ratio).

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Commercial Inland Marine Nonrenewals

All nonrenewed commercial inland marine policies were selected for review from a population of four. The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Adverse underwriting decision	2	50.0
Agent no longer appointed	2	50.0
Total	4	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal. All insureds and mortgagees were given proper and timely notification of nonrenewal.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Declinations/Rejections

Fifty declined/rejected applications were selected from a population of 170. The review revealed the following reasons for declination:

Reason for Nonrenewal	Number of Policies	Percentage
Adverse underwriting decision	46	92.0
Application rewritten	4	8.0
Total	50	100.0

The Company was deemed to be in violation of the policy termination provisions as 46 bound applications were declined without issuing a policy and without giving the insured the proper advance notice of cancellation (92.0% error ratio).

The Company was deemed to be in violation of the provisions of NCGS 58-39-55(a)(2) as the applicant was not provided with a summary of their rights for six applications that were declined due to information contained in a consumer report (12.0% error ratio).

The Company was reminded of the provisions of NCGS 58-39-65 as one application was declined based solely on a previous adverse underwriting decision without pursuing further information from the company responsible for the adverse underwriting decision (2.0% error ratio).

CLAIMS PRACTICES

Overview

The Company's claims practices were reviewed to determine compliance with the appropriate North Carolina statutes and rules and policy provisions. The license status for each claim adjuster was reviewed to determine if the adjuster was properly licensed at the time of the claim handling. The review encompassed first and third party paid property damage, third-party bodily injury, closed without payment, subrogated, and litigated claims. The Company reported only first party paid property damage claims and claims closed without payment had occurred during the examination period. One hundred claims were randomly selected for review from a population of 717.

Paid Claims

Fifty first party property damage claims paid during the period under examination were selected for review from a population of 380. The claim files were reviewed for timeliness of payment, supporting documentation, and accuracy of payment.

The Company was reminded of the provisions of NCGS 58-63-15(11)(h) as one claim (2.0% error ratio) was settled for an amount less than a reasonable person would have believed they were entitled. The estimate for a total fire loss did not include amounts for 90% of the home's vinyl siding, nor gutters and downspouts. At the request of the examiners, the Company issued a claim supplement to the insured/claimant in the amount of \$9,673.88, including interest.

All other claim files reviewed contained documentation to support the Company's payments. The documentation consisted of appraisals, estimates, repair bills, or inventory listings.

Claims Closed Without Payment

Fifty closed without payment claims were randomly selected for review from a population of 337. The claim files were reviewed to determine if the Company's reasons for closing the claims without payment were valid.

The claim files reviewed contained documentation that supported the Company's reasons for closing the claims without payment. All reasons for denial or closing the claims without payment were deemed valid. Claims were denied on an average of 10.5 days for the 3-year period. The review of closed without payment claims disclosed no violations of the provisions of NCGS 58-63-15.

SPECIAL CONCERNS

Special concerns regarding the conduct and operation of the Company were raised during this examination. North Carolina General Statute 58-2-131(i) provides that every company shall submit its books and records to examination by the Department and "must

facilitate” such examination. During the course of this examination, the Company failed to effectively coordinate with the Department and facilitate the examination. The Company was deemed to be in violation of the provisions of NCGS 58-2-131.

COMMENTS, RECOMMENDATIONS, AND DIRECTIVES

The Company must file all applications, declaration pages, and termination notices for all lines of business with the Department.

The Company is directed to maintain documentation of producers’ termination submissions and confirmations. The Company must perform a background check before appointing any producer to determine the producer has not committed any act that is a ground for probation, suspension, nonrenewal, or revocation set forth in NCGS 58-33-46. The Company must properly notify producers of the termination of their appointments within 15 days of the termination.

The Company is directed to develop rating manuals for all lines of business.

The Company is directed to abide by the policy termination provisions contained in the policy forms for each line of business regarding valid reasons for cancellation and proper advance notice to the insured. The Company must ensure that cancellation refunds are calculated using the correct cancellation method as described in the policy termination provisions. Nonrenewal notices must give the insured the proper amount of advance notice as described in the policy termination provisions.

The Company has agreed to cease utilizing the “short rate basis, 10% penalty” method of calculating return premium when the insured requests cancellation of an inland marine policy. The Company will instead use the more consumer-friendly and traditional “90% of pro-rata” method to calculate a short-rate return premium for these policies.

The Company must cease the practice of declaring a bound application that does not fit their underwriting guidelines as “unbound and declined”. Instead, a policy must be issued, and

proper notice of cancellation delivered to the insured and any lienholders giving adequate advance notice as described in the policy termination provisions.

Whenever an applicant is declined or cancelled due to information contained in a consumer report, the Company must provide the applicant with a summary of the rights established under NCGS 38-39-55(b), 58-39-45, and 58-39-50.

Upon acceptance of the Report the Company shall provide the Department with a statement of corrective action plan to address the violations identified during the examination. The Department will conduct a future investigation to determine if the Company successfully implemented their statement of corrective action.

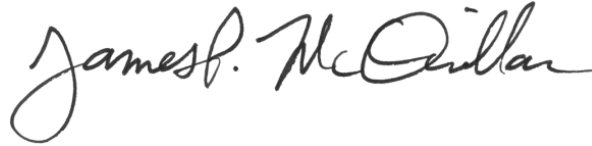
CONCLUSION

An examination has been conducted on the market conduct affairs of First Mutual Insurance Company for the period July 1, 2018, through June 30, 2021, with analyses of certain operations of the Company being conducted through January 12, 2023.

This examination was conducted in accordance with the North Carolina Department of Insurance and the National Association of Insurance Commissioners Market Regulation Handbook procedures, including analyses of the Company's operations in the areas of policyholder treatment, marketing, underwriting and rating, terminations, and claims practices.

In addition to the undersigned, Brooke Green, MCM, Paula Posey, MCM, and Jeffrey O'Bannon, MCM, North Carolina Market Conduct Senior Examiners, participated in this examination.

Respectfully submitted,

A handwritten signature in black ink that reads "James P. McQuillan". The signature is written in a cursive style with a large initial 'J'.

James P. McQuillan, CPCU, AIT, MCM
Examiner-In-Charge
Market Regulation Division
State of North Carolina

I have reviewed this examination report and it meets the provisions for such reports prescribed by this Division and the North Carolina Department of Insurance.

A handwritten signature in black ink that reads "Teresa Knowles". The signature is written in a cursive style with a large initial 'T'.

Teresa Knowles, MCM, ACS
Deputy Commissioner
Market Regulation Division
State of North Carolina